

REMARKS

Claims 1-9 are pending. Claim 2 has been amended and now include the contents of claim 1. Claim 3 has been amended and now includes the contents of claims 1 and 2. It is respectfully submitted that claims 2 and 3, which were indicated as containing allowable subject matter, should now be allowed. The Examiner is thanked for this expeditious indication of allowable subject matter.

Art-Based Rejections

In the Office Action, claims 1, 4-9 are rejected under 35 U.S.C. 102(e) as anticipated by Harvey et al. (2004/0201286) and Walters et al. (2004/0124026). Further, claims 1, 4-9 are rejected under 35 U.S.C. §102(b) as being anticipated by Baggett et al. (U.S. Patent 6,437,458). Claim 1 discloses a power take off control circuit for a lawn and garden vehicle. More particularly, claim 1 is directed to a control circuit for controlling a power-take-off of an engine driven lawn and garden vehicle, the control circuit comprising:

- a multi-position ignition switch having at least an off position and a run position;
- a PTO switch having an engaged position and a disengaged position for selectively engaging and disengaging said power-take-off;
- a reverse switch having a forward position and a reverse position for selectively operating said vehicle in a forward or a reverse direction;
- an override switch having an activation position and a non-activation position;
- said control circuit providing a non-override condition when said ignition switch is in said run position and said override switch is in said non-activation position, said non-override condition preventing operation of said power-take-off when said vehicle is operating in said reverse direction;
- said control circuit providing an override condition when said ignition switch is in said run position and said override switch is in said activation position, said

override condition allowing operation of said power-take-off when said vehicle is operating in said reverse direction;

- wherein said override condition is maintained when said vehicle transitions between said reverse and forward directions, and when said PTO switch transitions between said engaged and disengaged positions; and
- wherein said override condition is released when said ignition switch is in said off position, or when said override switch is in said non-activation position.

Under MPEP §2131:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as contained in the...claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

The §102(e) rejection of claim 1 as anticipated by Walters should be withdrawn because Walters does not disclose a multi-position ignition switch or an override system that releases the override condition when the override switch is toggled to the non-activation position.

Walters discloses a control arrangement for a lawn mower that selectively prevents operation of the lawn mower in the reverse direction with the lawn mowing mechanism operating. The arrangement includes structure (e.g., a bypass switch) actuatable by a lawn mower operator to permit the operation of the lawn mowing mechanism while the mower is propelled in the reverse direction as a bypass mode. The control circuitry terminates the bypass mode when the lawn mower operator is absent as indicated by a operator present switch. (Abstract).

Contrary to the Examiner’s statement that all the elements of claim 1 are disclosed in the

Walters reference, a multi-position ignition switch is not disclosed. Further, the Walters reference fails to disclose an override system in which the override condition is released when the override switch is toggled to the non-activation position. Accordingly, the §102(e) rejection of claim 1 is unsupported by Walters and should be withdrawn.

The §102(b) rejection of claim 1 as anticipated by Baggett should be withdrawn because Baggett does not disclose an override switch.

Baggett discloses an engine control circuit for a lawn tractor having a magneto-operated engine. The circuit includes a four position switch. When in the first position, the engine is stopped. The engine is started in the fourth position. In the third position, the tractor's power take-off can be used only during forward movement of the tractor. When the operator selects the second switch position, the power take-off can be used regardless of the direction of movement of the tractor. An additional switch is included in the circuit to isolate the tractor drive from the reverse selection arrangement. (Abstract).

Contrary to the Examiner's statement that all the elements of claim 1 are disclosed in the Baggett reference, an override switch is not disclosed. Accordingly, the §102(b) rejection of claim 1 is unsupported by Baggett and should be withdrawn.

The §102(e) rejection of claim 1 as anticipated by Harvey should be withdrawn because the rejection improperly modifies the Harvey invention and destroys the Harvey invention's intended purpose.

Harvey discloses a safety system for a riding lawn mower that prevents powered operation of a PTO driven implement while in reverse unless an override switch is "ON". The override switch does not allow the engine to start if the override switch is "ON". (Abstract; paragraphs [0006], [0011], and [0017]; claim 1). Further, Harvey states that the safety system override switch is a "sustained action override switch that is independent from the ignition switch" (paragraph [0050]). Further, claim 1 of Harvey lists the override and ignition switches as separate

switches and states that the override switch has an actuator with at least a first position. One stated goal of the Harvey safety system circuit is the disabling of the tractor starter if the override switch is in the “ON” position. (Paragraph [0005]).

The Examiner is combining the Harvey disclosure with the prior art referred to in Harvey paragraph [0004] to reject claim 1 under §102(e). The prior art from paragraph [0004] discloses a combination four-position override/ignition switch. The positions are “Off,” “Run with override on,” “Run with override off,” and “Start.”

As one can see, replacing the stand alone ignition and override switches of Harvey with the combination override/ignition switch from paragraph [0004] would result in a system that would never have the override switch in the “ON” position while the ignition is in the start position. Therefore the combination would destroy a purpose of the Harvey circuit, which is to ensure that the override switch is in the “OFF” position before applying power to the starter.

MPEP 2143.01(V) states, “[i]f the proposed modification would render the prior art being modified unsatisfactory for its intended purpose, there is **no suggestion or motivation** to make the proposed modification.” (Emphasis added, citing *In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984)). Therefore, the modification of the Harvey invention to include the combination switch of paragraph [0004] is improper and the §102(e) rejection must be withdrawn since the modification would destroy a purpose of the Harvey circuit and run opposite to the stated switch structure from paragraph [0050] and claim 1 of Harvey.

Accordingly, claim 1 is not anticipated or made obvious by the cited references, and favorable consideration of claim 1 is respectfully requested. Independent claim 7 contains limitations similar to those of claim 1 and is likewise patentable over the cited art. Claims 4-6 and 8-9, depending directly or indirectly from one of claims 1 or 7 are submitted as patentable over the cited references for at least the same reasons.

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Conclusion

In view of the remarks made herein, Applicants submit that the claims presented herein are patentably distinguishable from the art applied and prompt allowance of the application is respectfully requested.

The Examiner is invited to call the undersigned attorney if, during the course of reconsideration of this application, any question or comment should arise.

Respectfully submitted,

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